



**APPROVED MINUTES OF THE REGULAR SESSION OF  
THE SIGN BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
CITY COUNCIL CHAMBERS - JULY 8, 2008**

The meeting was called to order at 3:07 p.m. by Chair Steve Schweer.

**ROLL CALL**

Members Present: (4) S. Schweer, C. Brummer, G. Barnett, Jr. and D. Eyl  
Members Absent: (3) S. Olsen & 2 Vacancies  
Staff Present: (2) K. Lussenden & B. Acquaviva

**A. APPROVAL OF AGENDA** – Approved as presented without objection.

**B. APPROVAL OF MINUTES**

**B-1** Minutes of the June 10, 2008 Regular Session

Moved by C. Brummer, Seconded by David Eyl, “to approve the minutes of the June 10, 2008 Regular Session.”

**On a Voice Vote** – MOTION PASSED – **UNANIMOUS**

**C. APPEALS & ACTION**

**C-1** 2891 Jackson Avenue - 2008-S-005

The petitioner is requesting a variance to modify for their use an existing non-conforming pole sign.

**Description and Discussion**

**The petitioner is requesting a variance to modify for their use an existing non-conforming pole sign.**

5:516 Nonconforming Signs

- (1) **Signs lawfully erected prior to May 1, 1975, which do not meet the standards of this Chapter may be maintained except as hereafter provided**
- (2) **No nonconforming sign:**
  - a. **Shall be changed to another nonconforming sign;**
  - b. **Shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.**
  - c. **Shall be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign;**
  - d. **Shall have the face or faces changed when such sign is the type of construction to permit such a complete change of face;**
  - e. **Shall be re-established after the activity, business or usage to which it relates has been discontinued for 90 days or longer.**
  - f. **Shall be repaired or erected after being damaged if the repair or erection of the sign would cost more than 50 percent of the cost of an identical new sign.**

54 **The Sign Board of Appeals has the power granted by State law and by Section**  
55 **5:517(4), Application of the Variance Power from the City of Ann Arbor Sign**  
56 **Ordinance. The following criteria shall apply:**  
57

58 (a) That the alleged hardships or practical difficulties, or both are peculiar to the property  
59 of the person requesting the variance and result from conditions which do not exist  
60 generally throughout the city.

61 **Staff Comments: The petitioner has stated that: 1. the existing pole sign was**  
62 ***anticipated to be able to be utilized for their new business. After leasing the property***  
63 ***it was discovered that the pole sign is non-conforming and that a new sign would***  
64 ***have to be installed with the proper front and side yard setbacks. 2. That due to the***  
65 ***orientation of the building and some trees, it is difficult to see by westbound traffic***  
66 ***on Jackson Road. 3. That a sign in the parking lot would limit parking which is***  
67 ***currently in short supply***  
68

69  
70 **It does appear that to install a pole sign with the proper front and side yard setbacks**  
71 **would require the loss of one parking space. The loss of one parking space is**  
72 **unfortunate; however it does not rise to the level of practical difficulty or undue**  
73 **hardship. Therefore, the petitioner has not presented evidence of a practical**  
74 **difficulty and/or undue hardship which does not exist generally throughout the city;**  
75 **and consequently, there is no precedent for relief from this standard.**  
76

77 (b) That allowing the variance will result in substantial justice being done, considering the  
78 public benefits intended to be secured by this Chapter, the individual hardships that will be  
79 suffered by the failure of the Board to grant a variance and the rights of others whose  
80 property would be affected by the allowance of the variance.

81  
82 **Approval of this variance could negatively impact other property owners and**  
83 **possibly set precedent for future appeals that would not be based on a practical**  
84 **difficulty or undue hardship.**  
85

86 **Staff recognizes the challenge presented to the petitioner to promote his business,**  
87 **however current code compliant signage located and properly sized on the property**  
88 **should be sufficient to facilitate business identification and promotion.**  
89

90 **Recommendation: Staff does not support this variance request.**  
91

92 **Petitioner Presentation – Michele Cools, Manager/petitioner and part owner of Great Lakes**  
93 **Chocolate and Coffee Company was present to speak on behalf of the appeal. She stated**  
94 **that when they found 2891 Jackson Avenue last year, visibility was a real concern for them**  
95 **because going westbound due to the adjacent properties, you can't see it until right on top of**  
96 **it. We understood that we could use the pole sign as it was existing, and then found out that**  
97 **we weren't able to use it. Some of the concerns we have are:**  
98

- 99       ▪ From the submitted pictures, the visibility issue is a problem with being setback  
100       farther than the adjacent buildings.
- 101       ▪ We've also had three different customers get into car accidents there due to  
102       visibility issues. (Petitioner submitted a letter from one of the customers (Susan  
103       Carlson) who was involved in a previous accident there. The driver admitted that  
104       she saw our sign at the last minute, and pulled in, causing the accident.) This is  
105       a safety concern for our customers as well.

- 106           ▪ We're also a very young Michigan business trying to survive, and the added  
107           expense of tearing down the existing sign and then rebuilding another is  
108           something we can't afford right now.

109  
110 Ms. Cools mentioned that she had done research on the previous establishment located  
111 there, a Sunoco station owned by a Mr. Fox had a variance for the existing pole sign which  
112 we understand expired when the property was sold, but we're hoping to be granted a  
113 variance for the existing pole sign as well. One of the staff comments was concern that  
114 approval of the variance could set precedence for future appeals, but since this had  
115 previously had a variance; we were hoping that this would not be considered a precedent.

116  
117 It's also stated that this could negatively impact other property owners. I've spoken with most  
118 of the adjacent property owners, and they are excited about the prospect of the sign being  
119 reused. They're tired of seeing it in disrepair. (She provided the Board with some signatures  
120 of surrounding business owners). We're struggling as a business by not only having a  
121 positive impact of visibility but a negative one – a rusty pole sign outside which makes the  
122 public think that we're closed instead of an active business. We have on average between  
123 five to ten customers a day come in and tell us "oh, we thought you had gone out of  
124 business." It's discouraging knowing that we would have to build a new sign in addition to  
125 tearing down the old one. She stated that positive signage would help her business and draw  
126 additional business and possibly to the surrounding area.

### 127 128 **Discussion by the Board**

129  
130 C. Brummer (To Keith Lussenden) – What are the dimensions of the sign itself without the  
131 current pole, and what size monument sign could they have closer to the ground?  
132 (K. Lussenden – Stated that he didn't have that information with him and wasn't sure it was  
133 submitted). (The Board discussed what the dimensions might be, and decided that it was  
134 approximately 6' x 4' – *(Administrative Staff records show the previous variance to state the*  
135 *following: "21' in height")*).

136  
137 C. Brummer – (to staff) – What could they have for a monument sign on that space?  
138 (K. Lussenden – I don't believe that was even part of the petition. In order for me to know  
139 who they can have, I need to know how many linear feet or frontage they have).  
140 *(Administrative Support provided the file information to staff and the Board.)* The only issue  
141 raised was "can they reuse an existing, non-conforming sign." The answer, according to the  
142 ordinance was 'no,' so they had to appeal this by applying for a new variance).

143  
144 *(General discussion by the Board on the setback, the request, the plans, frontage, etc.)*

145  
146 S. Schweer – One of the main things the Sign Ordinance tried to achieve is to get rid of pole  
147 signs at the street; they grandfathered those existing prior to enactment of this ordinance.  
148 Grandfathering also has an end too. If you move this sign back, I agree, it would be too far  
149 back to be effective, but a monument on the ground could be placed almost as close as the  
150 existing sign, and be conforming to the code. Your situation is not unique.

151  
152 G. Barnett, Jr. – It does seem to me that there is also the safety issue. There have been a  
153 number of accidents at the scene, and it is not currently marked with the existing non-  
154 conforming sign in use. We used two terms – "Grandfathering" and "A Variance" – Does this  
155 sign continue to exist under a grandfathered clause or under a variance. *(Administrative staff*  
156 *stated that the last variance was granted in 1998 to a gas station owner for dual setback*  
157 *requirements of 42' (minimum) from two right of way lines, to erect a ground pole sign 21' in*  
158 *height, 37' from the Highlake street right of way and 2' from the Jackson Road right of way,*  
159 *with the contingency that if the owner or the site changes, the variance becomes invalid).*

160

161 G. Barnett – Stated that the dynamics that allowed a former Sign Board to allow a variance  
162 should be recognized.

163

164 S. Schweer – Disagrees. Thinks this is somewhat different in that it was a gas station  
165 previously, and if they were to use a conforming pole sign at that time, they would have had  
166 to have put it directly in the middle of their lot, which would have altered their gas pump  
167 aisles.

168

169 G. Barnett – (To Petitioner) – You’ve spoken of losing a parking place, how many do you  
170 have currently? (Fifteen regular spaces, three of which will always be used by employees.  
171 During our rushes, we do run out of parking). Is there other parking in the immediate area?  
172 (The only other option is the neighborhood, but I wouldn’t see that as a viable option – there  
173 isn’t any anywhere directly near the store).

174

175 D. Eyl – Where is the distance from the right of way measured – is it from the base of the  
176 sign? (K. Lussenden – From the front edge of the sign).

177

178 Petitioner – Would a monument sign also have to be 15’ back? (K. Lussenden – Yes,  
179 everything does).

180

181 S. Schweer – I’m not so sure that’s true any more is it Keith? We changed that in the newest  
182 ordinance. You can go up to the right of way if you make a 2’ high sign, which can be 4’ from  
183 the right of way. (K. Lussenden disagrees and quotes verbiage from the code regarding  
184 signs being set back 15’ from the lot line or the street.)

185

186 Petitioner – Stated that her concern with a monument sign set back 15’ would make visibility  
187 so poor that it wouldn’t help, besides inhibiting the view of Highlake (the side street)).

188

189 *(The Board discussed at length where the actual right of way and property lines are located.)*  
190 *K. Lussenden stated that he measured at the site, and that the petitioner would probably lose*  
191 *the first parking spot in her lot to accommodate a sign).*

192

193 G. Barnett, Jr. – Stated that he felt that there are unique features consisting of the further loss  
194 of parking which would impose a burden on the new business in addition to the absence of  
195 public parking in the area as well as the safety factor of three accidents reported there an  
196 attributed to the absence of a sign and there was a previous variance was granted. Under  
197 these circumstances I’m persuaded that a variance should be granted and I’ll vote in that  
198 manner.

199

200 S. Schweer – Stated he could not see the uniqueness of the situation. Anyone could argue  
201 that they will lose a parking place or are not as visible. The sign ordinance takes it for  
202 granted that everyone will get less signage and will be less visible than they used to be, but  
203 that is the fairness of the law in that everyone is in the same boat. To grant a variance when  
204 everyone else has to comply, is unfair.

205

206 C. Brummer – In my tenure on the Board, we’ve seen signs approved that haven’t come  
207 before the SBA that were virtually at the lot line, usually for something like a gas station with  
208 parking, right up to the sidewalk. Call the question.

209

210 “Moved by G. Barnett, Seconded by D. Eyl, “to approve the request for Appeal Number 2008-  
211 S-005, 2981 Jackson Road, to allow use of an existing non-conforming sign pole to be used  
212 for new signage for Great Lakes Chocolate and Coffee Company.”

213

214 On a Voice Vote – MOTION FAILED – 3 Yeas to 1 Nay (*Sign Board rules require that a vote*  
215 *of the board requires a minimum of four affirmative votes in order to pass a variance*).  
216

217 Yeas (3) – C. Brummer, D. Eyl and G. Barnett, Jr.

218 Nays (1) – S. Schweer  
219

## 220 **E – NEW BUSINESS**

221

222 The Board discussed the bylaws and asked that staff submit a request to the city attorney's  
223 office on clarification on Chapter 61, Section 5:502.2b as one portion of the Ordinance talks  
224 about "streets" and the other portion talks about "right of way."  
225

226 S. Schweer asked if we were keeping track of topics that the Board is interested in changing  
227 within the Sign Ordinance. Staff stated that there was no such list, but would assist in  
228 creating one.  
229

230 (*General discussion by the Board and Staff about the intent language in Chapter 61*)  
231

232 *The Board stated that the petitioner should be advised by staff that she can place a*  
233 *monument sign 15' from the street, and the board will continue to interpret the law of Chapter*  
234 *61 in that way.*  
235

236

237 **F - REPORTS & COMMUNICATIONS – None.**

238

239 **G - AUDIENCE PARTICIPATION – GENERAL – None.**

240

## 241 **ADJOURNMENT**

242

243 Moved by G. Barnett, Jr., Seconded by D. Eyl "**that the meeting be**  
244 **adjourned.** Chair Steve Schweer adjourned the meeting at 4:13 p.m. without  
245 objection."  
246

247

**On a Voice Vote – MOTION TO ADJOURN – PASSED – UNANIMOUS**  
**Submitted by: Brenda Acquaviva, Administrative Support Specialist V**